

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

----- x

KATHERINE DOHERTY, an infant, by her father and natural
guardian, PATRICK DOHERTY, PATRICK DOHERTY,
individually, and CHRISTINE DOHERTY,

07-CV-7460 (PKL)

Plaintiffs,

ANSWER

-against-

**WITH
JURY DEMAND**

PARRA & SON TRANSPORT, LLC and RENALDO
RODRIGUEZ,

Defendants.

----- x

Defendants, by and through their attorney, Carl S. Sandel, of the law firm of Morris Duffy
Alonso & Faley, hereby answer the Complaint as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth of the
allegations in paragraph 1.

2. Admit the allegations in paragraph 2.

3. Deny the allegations in paragraph 3.

4. Deny the allegations in paragraph 4.

5. Deny the allegations in paragraph 5.

6. Deny the allegations in paragraph 6.

7. Deny the allegations in paragraph 7 and refer all matters of law to the Court.

8. Admit the allegations in paragraph 8.

9. Admit the allegations in paragraph 9.

10. Deny the allegations in paragraph 10.

11. Admit the allegations in paragraph 11.

12. Admit the allegations in paragraph 12.

13. Admit the allegations in paragraph 13.

14. Admit the allegations in paragraph 14.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12, and refer all matters of law to the Court.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 19.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20.

21. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 26.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28.

29. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29.

30. Admit the allegations in paragraph 30.

31. Admit the allegations in paragraph 31.

32. Admit the allegations in paragraph 32.

33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33.

34. Deny the allegations in paragraph 34.

35. Deny the allegations in paragraph 35.

36. Deny the allegations in paragraph 36.

37. Deny the allegations in paragraph 37.

38. Deny the allegations in paragraph 38.

39. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39.

40. Deny the allegations in paragraph 40.

41. Repeat and reallege each and every response set forth in paragraphs 1 through 40 of this answer as if fully set forth at herein.

42. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42.

43. Deny the allegations in paragraph 43.

44. Repeat and reallege each and every response set forth in paragraphs 1 through 43 of this answer as if fully set forth at herein.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46.

47. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47.

48. Deny the allegations in paragraph 48.

49. Deny the allegations in paragraph 49.

50. Deny the allegations in paragraph 50.

51. Deny the allegations in paragraph 51.

52. Deny the allegations in paragraph 52.

53. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53.

54. Deny the allegations in paragraph 54.

55. Repeat and reallege each and every response set forth in paragraphs 1 through 55 of this answer as if fully set forth at herein.

56. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56.

57. Deny the allegations in paragraph 57.

AFFIRMATIVE DEFENSES

1. Any damages which may have been sustained by the plaintiffs were contributed to in whole or in part by the culpable conduct of the plaintiff, pursuant to Section 14-A, CPLR.

2. The injuries and damages alleged, all of which are denied by the defendants, were caused by the intervening, interceding and superseding acts of third parties not under the control of defendants.

3. Any damages which may have been sustained by the plaintiffs were contributed to in whole or in part by the culpable conduct of third parties not under the control of defendants.

3. Pursuant to CPLR 4545(c), if it be determined or established that plaintiffs has received or with reasonable certainty shall receive the cost of medical care, dental care, custodial care or rehabilitation services, loss of earnings or other economic loss, and that the same shall be replaced or indemnified, in whole or in part from any collateral source such as insurance (except for life insurance), social security (except for those benefits provided under title XVIII of the Social Security

Act), workers' compensation or employee benefit programs (except such collateral source entitled by law to liens against any recovery of the plaintiffs), then and in that event third party defendant hereby pleads in mitigation of damages the assessment of any such cost or expense as a collateral source in reduction of the amount of the award by such replacement or indemnification, minus an amount equal to the premiums paid by the plaintiffs for such benefits for the two year period immediately preceding the accrual of this action and minus an amount equal to the projected future cost to the plaintiffs of maintaining such benefits and as otherwise provided in CPLR 4545(c).

4. Any damages which may have been sustained by the plaintiffs were contributed to in whole or in part by the culpable conduct of third parties not under the control of third party defendant.

5. The plaintiffs' sole and exclusive remedy is confined and limited to the benefits and provisions of Article 51 of the Insurance Law of the State of New York.

6. Plaintiffs have failed to mitigate his damages.

7. If the plaintiffs were not wearing seat belts at the time of the accident, defendants plead the failure to wear same, or to wear same properly, in mitigation of damages.

8. Defendants assert Section 15-108 of the General Obligations Law and will ask the Court that the defendants be entitled to a set-off for any settlements, releases or discontinuances.

Dated: New York, New York
October 6, 2007

Morris Duffy Alonso & Faley

/s/

By: _____
Carl S. Sandel (CS3594)
2 Rector Street

New York, New York 10006
Telephone: (212) 766-1888
Facsimile: (212) 766-3252

To: Brett A. Sekowski, Esq. (Via ECF and U.S. Mail)
Attorney for Plaintiffs
Parker Waichman Alonso LLP
111 Great Neck Road
Great Neck, New York 11021
(516) 466-6500
(516) 466-6665